

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/12/2009 has been entered.

Acknowledgements

2. This is a non-final office action in response to the Applicant's Request for Continued Examination filed on 10/12/2009. Claims 1-62 are pending in this Office Action. Claims 1, 9, 17, 26, 34, 39, 46, 49, 57, and 61-62 are amended.

Response to Amendment

3. The rejection of claims 17, 26 and 39, and their respective dependent claims under 35 USC 101 has been withdrawn.

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4. Applicant's amendment to claim 34 is not sufficient to overcome the rejection of the claim under 35 USC 101. The addition of a database does not tie the method steps to a particular machine or apparatus (i.e computer system), and a database can be a paper file or a file cabinet for keeping records. Therefore, claims 34-38 are rejected under 35 USC 101.

Response to Arguments

5. With respect to claims 46 and 48, Applicant stated on page 17 of their remarks that claims 46 was amended to include the limitation "an employee scheduling module, configured for entering employee attendance data in an employee scheduling monitor data entry device, the employee scheduling computer having a processor and at least one display device", however such amendment was not reflected in the claims (see page 11 of amended claims). Therefore, the rejection of claims 46 and 48 under 35 U.S.C. 102(b) and 47 under 35 U.S.C. 103(a) is maintained.

6. Applicant's arguments with respect to claims 1-45 and 49-62 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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8. Claims 34-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

9. Claim 34 is directed towards methods for modifying employee schedules. As the claims are not sufficiently tied to an apparatus, such as a computer, and/or do not transform the underlying subject matter (from your claim) to a different state, the claimed method is non-statutory and therefore rejected under 35 U.S.C. 101.

10. Claims 35-38 are rejected for being dependent upon rejected claims 17, 26, 34 and 39 respectively.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 46 and 48 rejected under 35 U.S.C. 102(b) as being anticipated by O'Brien (US 6587831).

13. With respect to claim 46, O'Brien teaches a method comprising:

for a first employee, assigning a first input at least one shift start time and at least one shift stop time for each of one or more work days based on the particular needs of

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the employer or the desires of the employee or the employee status representing violation data in an employee violations sub-database into the scheduling database (column/line 6/5-17, regarding modifying start and end times);

for a second employee, assigning at least one shift start time and at least one shift stop time for each of one or more work days based on the particular needs of the employer or the desires of the employee or the employee status representing violation data in an employee violations sub-database into the scheduling database (column/line 6/5-17, regarding modifying start and end times); and

for a plurality of other employees, assigning as a plurality of nth inputs at least one shift start time and at least one shift stop time for each of one or more work days based on the particular needs of the employer or the desires of the employee or the plurality of other employee's status in an employee violations sub-database into the scheduling database and determining an output, including work shifts for the first employee, the second employee and for the plurality of other employees, based on the first input on the second input and on the plurality of nth inputs. (column/line 6/5-17, regarding modifying start and end times);

wherein said start times and stop times for said first, said second and said plurality of other employees are not confined to predefined work shifts (column/line 6/5-17, regarding modifying start and end times).

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14. Regarding claim 48, O'Brien teaches wherein said predefined work shifts start and stop at generally the same time (column/line 6/5-17, regarding modifying start and end times).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien (US 6587831) as applied to claim 46 above, and further in view of Official Notice.

As to claim 47, O'Brien teaches the method of Claim 46. Examiner takes Official Notice that it is old and well known in the art to divide a 24-hour work operation into 3-8 hour shifts. Therefore, it would have been obvious to one with ordinary skill in the art to modify the O'Brien system to divide the work shift into three 8-hour shifts because the simple substitution of one known element for another producing a predictable result renders the claim obvious.

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17. Claims 1-7, 9-10, 12-18, 20-32, 34-45 and 49-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien (US 6587831) in view of Swart (US 6330594).

18. With respect to claim 1, O'Brien teaches a system for maintaining and distributing a work schedule, the system comprising at least the following:

a schedule generator configured to generate work schedule data for a plurality of workers (column/line 4/40-44, regarding the schedule of shifts), on a worker by worker basis and further configured to;

access an employee data sub-module, wherein the employee data sub-module provides an interface for a manager to establish a data record on a plurality of employees, wherein the employee data sub-module communicates with at least a database interface software to establish and/or modify an employee data record (column/line 4/12-28, regarding employee data);

a main computer system communicably coupled with the employee scheduling module, configured to:

coordinate acceptance of calls into a call processing system and communicate schedule data to the employee scheduling module (column/line 5/10-25, regarding scheduling based on the call center workload);

provide input data from at least one manager including employee files, workload data and schedule changes (column/line 5/10-25, regarding scheduling based on the call center workload); and

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store data representing the work schedules in a database, wherein the main computer server communicates and processes employee schedule data with the employee scheduling computer, the employee scheduling computer display device and at least one employee computer terminal, including remote employee computer terminals (column/line 6/18-43, regarding the storing and displaying of schedules);

the call processing system communicably coupled to the mainframe computer system and the employee scheduling module (column/line 5/26-47, regarding call data used to determine final schedules);

at least one employee interface positioned at least one location within a work environment, wherein said at least one employee interface is in communication with said schedule generator and is configured to display work schedule data (column/line 6/18-34, regarding display of schedule information).

O'Brien does not directly teach employee attendance data. However, Swart teaches:

an employee scheduling module, configured for entering employee attendance data in an employee scheduling monitor data entry device, the employee scheduling computer having a processor and at least one display device (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges).

It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability to using teach employee attendance data for scheduling as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

19. Regarding claim 2, O'Brien further teaches, wherein said work schedule data comprises data regarding employee work schedules that are not generated around one or more predetermined work shifts (column/line 6/44-51, regarding altering business parameters and adjusting schedule accordingly).

20. As to claim 3, O'Brien further teaches including a display monitor configured to display work schedule data to a plurality of workers (column/line 6/18-34, regarding display of schedule information).

21. With respect to claim 4, O'Brien does not explicitly teach an attendance model. However, Swart teaches an attendance module configured to utilize said work schedule data and data regarding which workers are present in the work place for a given shift to define data representing worker attendance, and configured to provide the data representing the worker attendance to the schedule generator (column/line 4/59-5/14,

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regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability to using teach employee attendance data for scheduling as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

22. Regarding claim 5, O'Brien does not explicitly teach generating further schedule data in response to worker attendance data. However, Swart teaches wherein the schedule generator is adapted to generate at least further schedule data in response to the data representing worker attendance (column/line 5/39-48, regarding the scheduling cartridge). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability to using teach employee attendance data for scheduling as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

23. As to claim 6, O'Brien further teaches including a remote user interface in communication with said database to facilitate access by a remote user (column/line

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1/35-41, 2/16-33 regarding network and host computers throughout the distributed network).

24. With respect to claim 7, O'Brien further teaches wherein said employee interface comprises a networked computer having software to facilitate access to said work schedule data (column/line 1/35-41, 2/16-33 regarding network and host computers throughout the distributed network).

25. As to claim 9, O'Brien teaches a system to distribute a work schedule to a work force and allow for modifications to said work schedule, the system comprising at least the following:

- at least one data storage device adapted to store data representing the work schedule, the work schedule including at least one recurring shift defined independently of anticipated workload (column/line 4/64-5/1, regarding the schedule data store);

- a main computer system communicably coupled with the employee scheduling module, configured to:

- coordinate acceptance of calls into a call processing system and communicate schedule data to the employee scheduling module (column/line 5/10-25, regarding scheduling based on the call center workload);

- provide input data from at least one manager including employee files, workload data and schedule changes (column/line 5/10-25, regarding scheduling based on the call center workload); and

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store data representing the work schedules in a database, wherein the main computer server communicates and processes employee schedule data with the employee scheduling computer, the employee scheduling computer display device and at least one employee computer terminal, including remote employee computer terminals (column/line 6/18-43, regarding the storing and displaying of schedules);

the call processing system communicably coupled to the mainframe computer system and the employee scheduling module, configured to organize, oversee distribution, and modify said data representing the work schedule (column/line 5/26-47, regarding call data used to determine final schedules);

at least one kiosk located remotely from said computing device, said kiosk in communication with said computing device to provide an interface for given workers to view their work schedules and to propose changes to their work schedules (column/line 6/18-34, regarding display of schedule information at stations).

O'Brien does not directly teach and inputting attendance or an employee violations module. However, Swart teaches:

an employee scheduling module, configured for entering employee attendance data in an employee scheduling monitor data entry device, the employee scheduling computer having a processor and at least one display device (column/line 4/59-5/14,

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regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges);

at least one employee violations sub-module in communication with the data storage device and in communication with the computing device to obtain and/or to modify said data representing the work schedule according to the at least one employee violations sub-module (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges; column/line 3/60-4/19, regarding accessing schedule data that is adapted to interface with the various cartridges; column/line 5/39-48, regarding the scheduling cartridge);

It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability incorporate attendance data and accessing a cartridge containing employee attendance/absence and activities as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

26. With respect to claim 10, O'Brien further teaches wherein said at least one kiosk includes a display and user interface software (column/line 6/18-34, regarding display of schedule information).

27. As to claim 12, O'Brien does not directly teach a system that determines if a worker is at a place of work. However, Swart teaches an interface with an activity monitoring device that is in communication with said computing device and that is adapted to determine whether at least one worker at a place of work (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability to using determining if a worker is at a place of work as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

28. With respect to claim 13, O'Brien does not directly teach a system that determines if a worker is at a place of work. However, Swart further teaches including an interface with an activity monitoring device in communication with said computing device to monitor the activity of a worker at a place of work (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability to using determining if a worker is at a place of work as taught by Swart since

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the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

29. Regarding claim 14, O'Brien does not directly teach the use of an electric time clock. However, Swart teaches wherein said activity monitoring device includes an electronic time clock (column/line 8/35-44, regarding tracking and editing when an employee clock on/off). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability utilize an electric time clock as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

30. As to claim 15, O'Brien further teaches wherein said kiosk comprises a networked computer having software configured to provide an employee interface (column/line 6/18-34, regarding display of schedule information).

31. With respect to claim 16, O'Brien does not directly teach comparing the workers in the attendance module. However, Swart teaches an attendance module adapted to compare, for at least one given shift, a number of employees scheduled to work during

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the given shift to a number of employees present during the given shift, and wherein the attendance module is further adapted to route data resulting from the comparison to the computing device, and wherein the computing device is adapted to initiate at least one modification to at least one work schedule for at least a further shift, subsequent to the given shift, in response to the comparison (column/line 5/50-51, regarding the shift cartridge that allows for the manipulation of employee shifts). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability teach comparing the workers in the attendance module as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

32. Regarding claim 17, O'Brien teaches:

storing data representing the work schedules in a database (column/line 4/64-5/1, regarding the schedule data store);

a main computer system communicably coupled with the employee scheduling module, configured to:

coordinate acceptance of calls into a call processing system and communicate schedule data to the employee scheduling module (column/line 5/10-25, regarding scheduling based on the call center workload);

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provide input data from at least one manager including employee files, workload data and schedule changes (column/line 5/10-25, regarding scheduling based on the call center workload); and

store data representing the work schedules in a database by the main computer system communicably coupled with the employee scheduling module, wherein the main computer server communicates and processes employee schedule data with the employee scheduling computer, the employee scheduling computer display device and at least one employee computer terminal, including remote employee computer terminals (column/line 6/18-43, regarding the storing and displaying of schedules);

the call processing system communicably coupled to the mainframe computer system and the employee scheduling module, configured to organize, oversee distribution, and modify said data representing the work schedule (column/line 5/26-47, regarding call data used to determine final schedules);

enabling at least some of the employees to access the data, representing their respective work schedules via at least one terminal located within a workplace (column/line 6/18-34, regarding display of schedule information for employee access);

creating at least one proposed modification of the work schedule data to adjust a staffing level for at least one shift to compensate for at least one variation in anticipated workload (column/line 3/28-38, regarding schedule modification based on forecasted workload);

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transmitting the output, the proposed modification to the terminal for review by the given employees (column/line 6/18-34, regarding display of schedule information); and

enabling at least one of the employees to accept the proposed modification at least at the terminal (column/line 7/32-38, regarding posting of shift schedule for employee review).

O'Brien does not directly teach an employee violations module. However, Swart teaches:

entering employee attendance data in an employee scheduling monitor data entry device, the employee scheduling computer having a processor and at least one display device (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges);

creating at least one employee violations sub-database, via a first inputs, in communication with the database to delete and/or to modify the work schedule according to the at least one employee violations sub-database (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges; column/line 3/60-4/19, regarding accessing schedule data that is adapted to interface with the various cartridges; column/line 5/39-48, regarding the scheduling cartridge);

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It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability to implement an employee violations module as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

33. As to claim 18, O'Brien further teaches wherein enabling at least one of the given employees to accept the proposed modification includes enabling the given employees to perform at least one of signing up to work additional hours and signing up to work fewer hours (column/line 9/17-26, regarding increasing or decreasing shift availability).

34. Regarding claim 20, O'Brien teaches further including: establishing a pool to which employees may post shifts that are available for trade; enabling employees to post shifts to said pool; enabling employees to accept shifts from said pool; and modifying the work schedules based, at least in part, upon acceptance of shifts from the pool (column/line 6/52-7/10, regarding bulletin system for the employee recipient group).

35. As to claim 21, O'Brien teaches the method of Claim 20, wherein establishing a pool includes storing a listing in the database of proposed shift changes posted by employees (column/line 6/52-7/10, regarding bulletin system for the employee recipient group).

36. With respect to claim 22, O'Brien teaches displaying shifts posted to the pool on a display adapted for viewing by a plurality of employees (column/line 6/52-7/10, regarding bulletin system for the employee recipient group).

37. Regarding claim 23, O'Brien teaches enabling at least one of the given employees to accept the proposed modification includes enabling the give employees to accept the proposed modification via at least one of an overhead display monitor and a kiosk (column/line 3/9-17 and 6/18-36, regarding employee station and interface)

38. As to claim 24, O'Brien teaches modifying said employee schedules in response to an employee signing-up for said opportunities for employees to modify their work schedule; and storing said modified schedules in said database (column/line 7/5-17, regarding modification of work schedules).

39. With respect to claim 25, O'Brien does not explicitly teach the comparison of employees. However, Swart teaches wherein creating at least one proposed modification includes posting at least one sheet that is created in response to a comparison between a number of employees scheduled to work a given shift and a number of employees actually working the given shift (column/line 5/50-51, regarding the shift cartridge that allows for the manipulation of employee shifts). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien

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with the ability teach comparing the workers as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

40. Regarding claim 26, O'Brien teaches: creating a sheet having at least one slot defined for a given work shift; transmitting said sheet for viewing by a plurality of employees via a system computing device via a system computing device; receiving an input via a sign-up to a slot on said sheet by a signing-up employee; and upon detecting the input via the sign-up to said sheet: accepting and/or denying said sign-up onto said sheet based on the output; modifying said sheet to reflect said sign-up; and modifying said signing-up employee's schedule to reflect said sign-up and presenting the output on an employee computing device (column/line 6/52-7/10, regarding bulletin system for the employee recipient group to sign up electronically for shift modifications and view schedule modifications).

O'Brien does not directly teach and employee violations module. However, Swart teaches:

determining an output based on the input and based on determining whether the signing-up employee is listed an employee violations sub-database to decline, accept and/or to modify the signing-up employee work shift according to the employee

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violations sub- database (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges; column/line 3/60-4/19, regarding accessing schedule data that is adapted to interface with the various cartridges; column/line 5/39-48, regarding the scheduling cartridge);

It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability incorporate attendance data and accessing a cartridge containing employee attendance/absence and activities as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

41. As to claim 27, O'Brien teaches wherein creating a sheet comprises using a computer to create a sign-up page adapted to support modifying a number of workers scheduled to work during a particular period (column/line 6/52-7/10, regarding the electronic sign up page). However, further adapting the sign-up page to support the fluctuation of workers does not further limit the functionality of the claimed invention.

MPEP 2106 II C.

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42. Regarding claim 28, O'Brien teaches wherein creating a sheet comprises using a computer to create a sign-up page adapted to support increasing a number of workers scheduled to work during a particular period (column/line 6/52-7/10, regarding the electronic sign up page). However, further adapting the sign-up page to support the fluctuation of workers does not further limit the functionality of the claimed invention. MPEP 2106 II C.

43. With respect to claim 29, O'Brien teaches wherein creating a sheet comprises using a computer to create a sign-up page adapted to support decreasing a number of workers scheduled to work during a particular period (column/line 6/52-7/10, regarding the electronic sign up page). However, further adapting the sign-up page to support the fluctuation of workers does not further limit the functionality of the claimed invention. MPEP 2106 II C.

44. With respect to claim 30, O'Brien does not directly teach the comparison of the employees. However, Swart teaches wherein creating a sheet includes creating the sheet in response to a comparison between a number of employees scheduled to work a given shift and a number of employees actually working the given shift (column/line 5/50-51, regarding the shift cartridge that allows for the manipulation of employee shifts). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability teach comparing the workers in the attendance module as taught by Swart since the claimed invention is merely a

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combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

45. Regarding claim 31, O'Brien further teaches wherein transmitting includes showing said sheet only to employees qualified to work the work shift listed on said sheet (column/line 7/27-29, regarding verifying employee has permission to work the shift).

46. As to claim 32, O'Brien further teaches closing said sheet when all slots are filled 15 due to sign-ups (column/line 6/47-51, regarding completion of schedule generation when conditions are filled).

47. With respect Claim 34, O'Brien teaches creating a proposed shift trade, said proposed shift trade including at least posting employee shift information regarding shift hours and shift date into a database; posting said proposed shift trade to a shift pool, said shift pool configured to accept an input into the database regarding responses to said posting from other employees; displaying said shift pool to a plurality of other employees; monitoring said shift pool for an output response from at least one responding employee to accept said proposed shift trade; wherein said output response is determined by the proposed shift trade information input into the database; and whereby upon receiving said response, said accepts said response; updates the work

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schedules of said posting employee and said responding employee; and removes said proposed shift trade from said shift pool (column/line 6/52-7/10, regarding employee bulletin system and 8/53-9/16, regarding employee shift swapping).

O'Brien does not directly teach determining whether a response is subject of an employee violations record. However, Swart teaches a system that:

determines whether said response received is subject of an employee violations record and not available to accept said response (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges; column/line 3/60-4/19, regarding accessing schedule data that is adapted to interface with the various cartridges; column/line 5/39-48, regarding the scheduling cartridge).

It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability incorporate attendance data and accessing a cartridge containing employee attendance/absence and activities as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

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48. As to claim 35, O'Brien further teaches wherein said shift pool comprises a listing of proposed shift trades that can be viewed by employees seeking to modify their schedule (8/53-9/16, regarding employee shift swapping).

49. Regarding claim 36, O'Brien further teaches wherein said posting allows other employees to view and sign- up for said proposed shift trade (8/53-9/16, regarding employee shift swapping).

50. With respect to claim 37, O'Brien further teaches, further including the block of displaying to an employee on an employee interface only the proposed shift trades that said employee on an employee interface is qualified to perform (column/line 7/27-29, regarding verifying employee has permission to work the requested shift).

51. As to claim 38, O'Brien further teaches wherein creating a proposed shift trade comprises;

logging onto said scheduling system at an employee interface; and selecting which shift hours of a proposed shift trade said posting employee desires to post (8/53-9/16, regarding employee shift swapping)

52. Regarding claims 39, 61 and 62, O'Brien teaches a method comprising at least the following:

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obtaining at least a first input including employee schedule data from at least one scheduling system, said employee schedule data representing a number of employees scheduled to work a given shift (column/line 4/53-59, regarding assigned employees to a shift);

obtaining a second input including employee status data representing a number of employees actually at work during at least part of the given shift (column/line 8/53-9/16, regarding the generation of a current employee schedule and factoring in employees entering requests to swap shift and a revised schedule is generated);

O'Brien does not directly teach obtaining data on employees that actually worked. However Swart teaches:

comparing the at least a first input including said employee schedule data and the at least second input including said employee status data to determine an output as established based on the received first input and received second input, the output including a difference there between comparison (column/line 5/50-51, regarding the shift cartridge that allows for the manipulation of employee shifts);

routing the output data representing the difference to the scheduling system comparison (column/line 5/50-51, regarding the shift cartridge that allows for the manipulation of employee shifts); and

employing the data representing the difference and employee status in an employee violations sub-database as at least inputs in modifying further schedule data applicable to at least one further shift that occurs subsequently to the given shift

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(column/line 5/50-51, regarding the shift cartridge that allows for the manipulation of employee shifts; column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges; column/line 3/60-4/19, regarding accessing schedule data that is adapted to interface with the various cartridges; column/line 5/39-48, regarding the scheduling cartridge).

It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability to make shift manipulations incorporating employee attendance/absence taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

53. With respect to claim 40, O'Brien further teaches wherein obtaining employee schedule data comprises polling a database to obtain schedule data created by the scheduling system (column/line 4/53-59, regarding assigned employees to a shift).

54. As to claim 41, O'Brien further teaches further comprising storing data representing the difference (column/line 4/64-51).

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55. Regarding claim 42, O'Brien does not directly teach obtaining an employee status data. However, Swart teaches wherein obtaining employee status data comprises interfacing with a network computer system to determine which employees are utilizing the network computer system (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges; column/line 3/60-4/19, regarding accessing schedule data that is adapted to interface with the various cartridges). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability teach obtaining employee status data as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

56. With respect to 43, O'Brien does not directly teach tracking attendance violations. However, Swart teaches comprising communicating the data representing the difference to a component related to tracking attendance violations (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges; column/line 3/60-4/19, regarding accessing schedule data that is adapted to interface with the various cartridges). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability teach tracking attendance violations as

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taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

57. As to claim 44, O'Brien does not directly teach comparing employees. However, Swart teaches wherein comparing includes determining a number of employees at work during the given shift but not scheduled to work during the given shift (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges; column/line 3/60-4/19, regarding accessing schedule data that is adapted to interface with the various cartridges). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability teach comparing employees as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

58. Regarding claim 45, O'Brien does not directly teach comparing employees. However, Swart teaches wherein comparing includes determining a number of employees scheduled to work the given shift but not at work during the given shift (column/line 4/59-5/14, regarding the data acquisition system that monitors and records

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the working time and attendance/absences and activities of employees in cartridges; column/line 3/60-4/19, regarding accessing schedule data that is adapted to interface with the various cartridges). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability teach obtaining employee status data as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

59. With respect to 49, O'Brien teaches a scheduling apparatus comprising:

means for creating a schedule for each of a plurality of employees (column/line 4/40-44);

means for storing said schedule as schedule data (column/line 4/64-51);

means for allowing said employees to view said schedule data at a remote location (column/line 2/16-33);

means for retrieving said schedule data from said means for storing (column/line 6/18-34); and

means for displaying said schedule data to at least one of said employees at said remote location (column/line 6/18-34).

O'Brien does not directly teach monitoring employee attendance or violations.

However, Swart teaches:

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means for monitoring employee attendance and/or workplace rule infractions at a remote location and storing as employee violation data (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges);

means for retrieving violation data from said means for storing (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges); and

means for displaying violation data to at least one of said employees at said remote location (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges).

It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability teach monitoring employee attendance or activities that may constitute a violation as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

60. As to claim 50, O'Brien teaches the scheduling apparatus of Claim 49. Examiner takes Official Notice that printing items displayed on an interface is old and well known

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in the art. Thus printing the schedule provided in O'Brien constitutes a predictable result that would have been obvious to one with ordinary skill in the art.

61. With respect to claim 51, O'Brien teaches the scheduling apparatus of Claim 49 where employees can modify their schedules (column/line 7/7-17) O'Brien does not directly teach a request from the employer to modify the schedule. However, system in O'Brien through the employee bulletin system is capable of allowing an employer to request the employee to modify the schedule. Therefore, a request to employees to modify their schedules as specified on said sheet is a predictable result of the O'Brien system.

62. Regarding claim 52, O'Brien does not directly teach posting a sheet in response to a difference detected between employees. However, Swart teaches wherein the means for posting is adapted to post the sheet in response to a difference detected between a number of employees scheduled to work a given shift and a number of employees actually working the given shift (column/line 5/50-51, regarding the shift cartridge that allows for the manipulation of employee shifts). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability teach posting a sheet in response to a difference detected between employees as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the

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same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

63. As to claim 53, O'Brien further teaches further including means for posting employee- initiated shift trade requests for viewing and sign-up by said one or more employees (8/53-9/16, regarding employee shift swapping).

64. With respect to claim 54, O'Brien does not directly teach comparing schedule data of employees. However, Swart teaches further including means for comparing schedule data representing a number of employees who are scheduled to work a given shift with worker status data representing employees who are actually working the given shift (column/line 5/50-51, regarding the shift cartridge that allows for the manipulation of employee shifts). It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability teach comparing schedule data of employees as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

65. Regarding claim 55, O'Brien further teaches further comprising means for posting at least one sheet for acceptance by the employees, wherein the posting means is

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responsive to the comparing means (column/line 6/52-7/10, regarding bulletin system for the employee recipient group).

66. As to claim 56, O'Brien further teaches a means for posting at least one sheet for acceptance by the employees, wherein the posting means is responsive to the comparing means to post the at least one sheet in response to a difference detected between a number of employees scheduled to work a given shift and a number of employees actually working the given shift (column/line 6/52-7/10, regarding bulletin system for the employee recipient group).

67. With respect to claim 57, O'Brien teaches said computer usable medium comprising:

computer program code logic configured to store schedule data on a storage medium, wherein said schedule data comprises the work schedules of a plurality of employees (column/line 4/64-51);

computer program code logic configured to monitor for requests for said employee data from employees (column/line 6/18-34, regarding display of schedule information);

computer program code logic configured to transmit said employee data to said employee interface (column/line 6/18-34, regarding display of schedule information);

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computer program code logic configured to allow for establishment of at least one sheet containing slots for employees to sign-up for additional or reduced hours (column/line 9/17-26)

computer program code logic configured to display said at least one sheet to at least one employee(column/line 6/18-34, regarding display of schedule information); and

computer program code logic configured to accept or deny employee sign-up to said at least one sheet (column/line 6/18-34, regarding display of schedule information);.

O'Brien does not directly teach logic to store employee violations. However, Swart teaches:

computer program code logic configured to monitor and store employee violations data on a storage medium, wherein said employee violations data comprises one or more infractions of a set of workplace rules and/or obligations (column/line 4/59-5/14, regarding the data acquisition system that monitors and records the working time and attendance/absences and activities of employees in cartridges; column/line 3/60-4/19, regarding accessing schedule data that is adapted to interface with the various cartridges; column/line 5/39-48, regarding the scheduling cartridge)

It would have been obvious to one of ordinary skill in the art to include the business system of O'Brien with the ability to monitor and store employee activities that

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could constitute a violation module as taught by Swart since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

68. Regarding claim 58, O'Brien further teaches wherein said storage medium comprises a hard disk drive (column/line 4/64-51).

69. As to claim 59, O'Brien further teaches including computer program code logic configured to allow a posting employee to post proposed shift trades to a shift pool (8/53-9/16, regarding employee shift swapping)..

70. With respect to claim 60, O'Brien teaches further including computer program code logic configured to display said shift pool so that employees other than posting employees can view said proposed shift trades and sign-up to work shifts in said shift pool of proposed shift trades (8/53-9/16, regarding employee shift swapping).

71. Claims 8, 11, 19 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien (US 6587831) in view of Swart (US 6330594) as applied to claims 1, 9 and 26 above, and further in view of Official Notice.

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72. Regarding claim 8, O'Brien in view of Swart does not directly teach attaching a printer to the employee interface. However, Examiner takes Official Notice that attaching a printer to a computer system is old and well known in the art. Therefore, it would have been a predictable result to one with ordinary skill in the art to attach a printer to the employee interface provided in the combination taught by O'Brien in view of Swart.

73. Regarding claims 11, 19 and 33, O'Brien teaches including a computing device to display schedule information to a plurality of workers (column/line 6/18-34, regarding display of schedule information). O'Brien in view of Swart does not directly teach using an overhead display to show schedule information. However, Examiner takes Official Notice that overhead display systems are old and well known in the art and using a different display mechanism does not affect the functionality of the disclosed system. Thus, one with ordinary skill in the art would modify the O'Brien in view of Swart to include an overhead display monitor to render a predictable result.

Conclusion

74. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Castonguay (US 5911134), regarding method of planning and scheduling of personnel; Green (US 6192346, regarding scheduling allowing for

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employees to bid based on seniority; Fields et al (US 5111391, regarding seniority based staff scheduling).

75. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI P. PARKER whose telephone number is (571) 272-9796. The examiner can normally be reached on Mon-Thurs. 8-5pm.

76. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley B. Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

77. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3624

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Primary Examiner, Art Unit 3624